

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED
JUN 5 2009
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

MICHAEL F. THOMPSON,

Plaintiff,

v.

UNITED STATES POSTAL SERVICE,

Defendant.

09cv3418
JUDGE HART
MAG. JUDGE DENLOW

COMPLAINT FOR INJUNCTIVE RELIEF

1. This is an action pursuant to the Freedom of Information Act, 5 U.S.C. § 552, to order the production of agency records, concerning an investigation by the U.S. Postal Investigation Service of the Plaintiff, which defendant has improperly withheld from the Plaintiff, Michael F. Thompson.

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B).

3. Plaintiff, Michael F. Thompson, is an artist residing in the City of Chicago, in the Northern District of Illinois, and the requester of certain records which the Defendant is now withholding.

4. Defendant, the UNITED STATES POSTAL SERVICE, is an agency of the United States and maintains possession of the documents sought by Plaintiff.

5. Defendant, the UNITED STATES POSTAL SERVICE, has agents, and transacts its affairs in the Northern District of Illinois.

6. The Plaintiff and Defendant have conducted all business by way of correspondence. Plaintiff's initial FOIA request was made on July 23, 2008. A copy of that correspondence is attached hereto and incorporated herein as Exhibit A. The letter begins "Please be advised that I represent Michael F. Thompson."

7. Defendant responded by way of correspondence dated July 30, 2008. Included therein is

the statement "...please advise me as to whether you represent Mr. Thompson." A copy of that correspondence is attached hereto and incorporated herein as Exhibit B.

8. Correspondence in August of 2008, regarded the identification of the Plaintiff. Copies of those letters are attached hereto and incorporated herein as Exhibits C - E.

9. On September 17, 2008, Defendant first indicated that it "... was unable to locate" the file and indicated the right to appeal the decision. Defendant indicated that Plaintiff would be notified if the file was located. A copy of that correspondence is attached hereto and incorporated herein as Exhibit F.

10. In February of 2009, having heard no further response from the Defendant, Plaintiff reminded Defendant of the request, sought information regarding efforts made to locate the file and filed a second FOIA request seeking transfer records regarding the matter. Copies of the February 18, 2009, letters are attached hereto and incorporated herein as Exhibits G and H.

11. On March 3, 2009, Defendant advised that the file had been found and that the Postal Service had to retrieve the records from another facility and therefore, there would be a delay in responding. A copy of that correspondence is attached hereto and incorporated herein as Exhibit I..

12. On March 20, 2009, Defendant forwarded 73 pages and indicated that material was exempt from disclosure. Defendant provided only a few copies of confiscated envelopes. A copy of that correspondence is attached hereto and incorporated herein as Exhibit J.

13. On April 8, 2009, Plaintiff appealed the denial of his request, seeking copies of the full file including copies of envelopes and stamps. A copy of that correspondence is attached hereto and incorporated herein as Exhibit K.

14. On May 8, 2009, the Defendant responded to the appeal indicating that the Postal Investigation Service reviewed "117 pages of records responsive" to the request. The Defendant

provided additional records and denied the appeal. See: May 8, 2009, correspondence attached hereto and incorporated herein as Exhibit L.

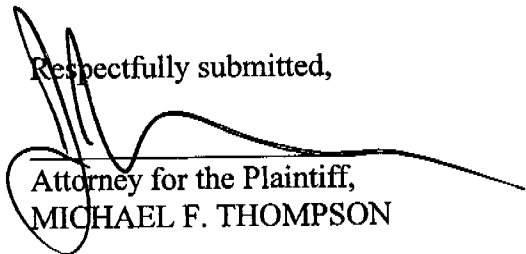
15. The additional materials provided indicate that Defendant retained "A total of 312 envelopes and cards," that the matter was never presented for prosecution and that "No further investigative attention is warranted at this time." See: Attachment to Rapp Case File Checklist, attached hereto and incorporated herein as Exhibit L.

16. Plaintiff has a right of access to the requested information pursuant to 5 U.S.C. § 552(a)(3), and there is no legal basis for Defendant's denial of such access.

WHEREFORE, for the above and forgoing reasons, Plaintiff prays that this Court:

- a. Order Defendant to provide access to the requested documents;
- b. Award Plaintiff costs and reasonable attorneys fees in this action, as provided in 5 U.S.C. § 552(a)(4)(E); and
- c. For such further relief as the Court may deem just and proper.

Respectfully submitted,


Attorney for the Plaintiff,
MICHAEL F. THOMPSON

Jeffrey J. Levine, P.C.
20 North Clark Street, Suite 800
Chicago, Illinois 60602
(312) 372-4600

JEFFREY J. LEVINE P.C.

ATTORNEY AT LAW

20 NORTH CLARK STREET, SUITE 800

CHICAGO, ILLINOIS 60602

312.372.4600

Via Certified Mail
7005 1160 0001 3106 1484

July 23, 2008

Chief Postal Inspector
U.S. Postal Service
475 L'Enfant Plaza SW Room 3100
Washington D.C. 20260-2100

Re: FOIA Request

Dear Sir or Madam:

Please be advised that I represent Michael F. Thompson. Mr. Thompson is an artist who creates fake postage stamps. Pursuant to the Privacy Act, 5 U.S.C. § 552(a), and the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law No. 104-231, 110 Stat. 3048, on behalf of my client Michael F. Thompson, d/o/b/ 04/01/51, I hereby request a copy of any and all records maintained by the U.S. Postal Service and the Postal Inspection Service, and any and all agencies thereof, relating to my client. The records requested specifically include, but are not limited to files, reports, interviews, photographs (or any method of image storage), envelopes or any other information regarding stamps, envelopes or other items that have been confiscated and/or maintained regarding, concerning indicating and/or referring to my client. This request is not made for commercial use. See: 5 U.S.C. § 552(a)(4)(A)(ii)(II).

Mr. Thompson's current address is as follows:

Michael F. Thompson
319 North Albany Avenue
Chicago, Illinois 60612

His past address was 500 West Cermak Road, Suite 2A, in Chicago, Illinois 60616.

It is requested that the materials be provided in an 8.5" x 11" printed page format or in high resolution electronic format, and that any stamps and/or envelopes be provided by way of color reproductions. Please contact my office with an estimated fee for the requested documents.

If this request is denied in whole or in part based upon 5 U.S.C. § 552(b), please provide a basis for such denial to be submitted to the district court pursuant to 5 U.S.C. § 552(a)(4)(B).

Very truly yours,

Jeffrey J. Levine, P.C.

cc: M.F. Thompson





UNITED STATES POSTAL INSPECTION SERVICE

OFFICE OF COUNSEL

July 30, 2008

Mr. Jeffrey J. Levine
Attorney at Law
20 North Clark Street, Suite 800
Chicago, IL 60602-4119

RE: FOIA No. 2008-FPIS-00264

Dear Mr. Levine:

This is in reference to your Freedom of Information Act request, dated July 23, 2008, for access to certain records that may be in the custody of the U.S. Postal Inspection Service regarding your client, Michael F. Thompson.

In order for us to provide you greater access to all releasable record material, please advise me as to whether you represent Mr. Thompson. If so, it will be necessary for you to furnish this department a notarized statement from your client authorizing the release to you of any records the Postal Inspection Service may have in its possession regarding him (5 U.S.C. 552a(b)). For identification purposes, such authorization(s) should include his Social Security number, date of birth, and current residential and/or business mailing address. It is also requested that you identify the geographical areas in which you have reason to believe information relating to Mr. Thompson is on file.

Upon receipt of the requested authorization, we will give further attention to your inquiry.

Sincerely,

A handwritten signature in cursive script, reading "Renee Baxter", is written over the typed name.

M. Renee Baxter
Information Disclosure Technician

1735 N. LYNN STREET, ROOM 4039
ARLINGTON, VA 22209-4039
TELEPHONE: 703-292-3944
FAX: 703-292-4083



JEFFREY J. LEVINE P.C.

ATTORNEY AT LAW

20 NORTH CLARK STREET, SUITE 800

CHICAGO, ILLINOIS 60602

312.372.4600

August 5, 2008

M. Renee Baxter
Information Disclosure Technician
U.S. Postal Inspection Service
Office of Counsel
1735 North Lynn Street, Room 4039
Arlington, Virginia 20209-4039

Re: FOIA Request No. 2008-FPIS-00264

Dear Ms. Baxter:

Reference is made to my FOIA request on behalf of Michael Thompson dated July 23, 2008, as well as your July 30, 2008 responding correspondence asking whether I represent Mr. Thompson.

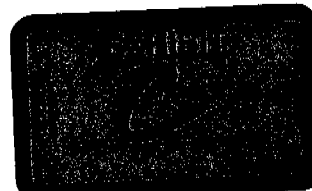
My representation of Mr. Thompson is indicated in the first sentence of the FOIA request. I do not require the release of records be made to my office and therefore will not forward an authorization. All records requested may be forwarded directly to Mr. Thompson.

The FOIA request contained Mr. Thompson's present and past addresses. With regard to the geographical areas, Mr. Thompson has resided in Chicago for many years but the items requested could be from sources from around the world. If I can be of further assistance with regard to the inquiry, please feel free to contact my office at your convenience.

Very truly yours,


Jeffrey J. Levine, P.C.

cc: M.F. Thompson





UNITED STATES POSTAL INSPECTION SERVICE

OFFICE OF COUNSEL

August 8, 2008

Mr. Jeffrey J. Levine
Attorney at Law
20 North Clark Street, Suite 800
Chicago, IL 60602-4119

RE: FOIA No. 2008-FPIS-00264

Dear Mr. Levine:

This is in further reference to your letter dated July 23, 2008, requesting, pursuant to the Freedom of Information/Privacy Acts, access to certain records that may be in the custody of the U.S. Postal Inspection Service regarding you.

In accordance with 39 CFR Section 266.6(a) personal data sufficient to identify the individuals submitting requests under the Privacy Act of 1974, 5 U.S.C. Section 552a, is required. The purpose of this solicitation is to ensure that the records of individuals who are the subject of U.S. Postal Inspection Service systems of records are not wrongfully disclosed by the Service. Failure to furnish this information will result in no action being taken on your request. False information on this form may subject the requester to criminal penalties under 18 U.S.C., Section 1001 and/or 5 U.S.C., Section 552a(i)(3).

Using the enclosed form, please provide your **original** notarized signature, by mail **within 15 working days** of the date of this letter or you may submit an **original** declaration in lieu of a notarized signature.

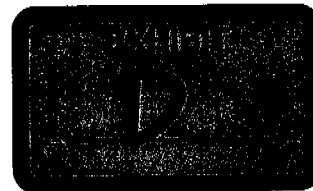
Upon receipt of the requested information, we will provide further attention to your request for records. Failure to furnish this information will result in no action being taken on your request.

Sincerely,

Renee Baxter

M. Renee Baxter
Information Disclosure Technician

1735 N. LYNN STREET, ROOM 4039
ARLINGTON, VA 22209-4039
TELEPHONE: 703-292-3944
FAX: 703-292-4083



JEFFREY J. LEVINE P.C.

ATTORNEY AT LAW

20 NORTH CLARK STREET, SUITE 800

CHICAGO, ILLINOIS 60602

312.372.4600

August 18, 2008

M. Renee Baxter
Information Disclosure Technician
U.S. Postal Inspection Service
Office of Counsel
1735 North Lynn Street, Room 4039
Arlington, Virginia 20209-4039

Re: FOIA Request No. 2008-FPIS-00264

Dear Ms. Baxter:

Reference is made to my FOIA request on behalf of Michael Thompson dated July 23, 2008, your July 30, 2008 responding correspondence, my August 5, 2008 Reply and your August 8, 2008, Sur-reply as well as our telephone conversation.

Upon review of 39 CFR § 226.6(a)(2) and § 226.6(b)(2), I have enclosed the following:

1. A notarized affidavit from my client, Michael F. Thompson, indicating his identity as well as stating that I represent him with regard to his FOIA request; and
2. A copy of Mr. Thompson's valid Illinois driver's license.

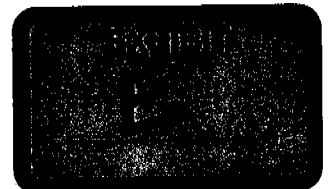
I hope that these documents satisfy your outstanding requests. If I can be of further assistance with regard to the inquiry, please feel free to contact my office at your convenience.

Very truly yours,

Jeffrey J. Levine, P.C.

enclosures

cc: M.F. Thompson



STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

AFFIDAVIT

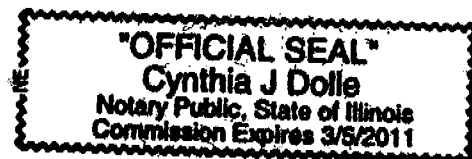
Affiant, Michael F. Thompson, duly sworn under oath, states and affirms as follows:

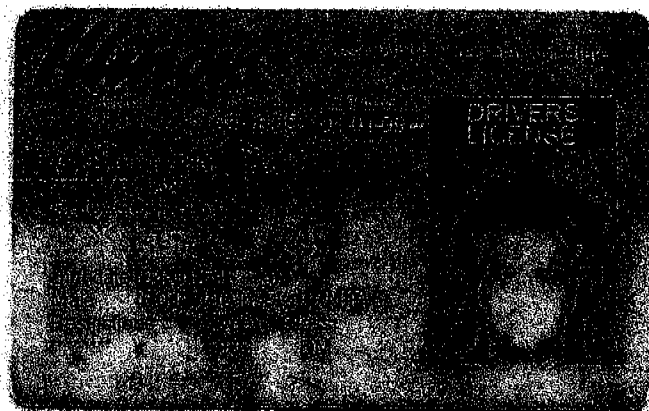
1. Affiant is the individual who presently seeks records from the U. S. Postal Inspection Service pursuant to FOIA Request No. 2008-FPIS-00264;
 2. Affiant presently resides at 319 North Albany, in Chicago, Illinois;
 3. Affiant has attached a photocopy of his current Illinois driver's license to verify his identity.
 4. For purposes of Affiant's FOIA request, affiant is represented by attorney Jeffrey J. Levine;
 5. Affiant hereby authorizes the U. S. Postal Inspection Service to provide any records in its possession relating to affiant, to my attorney Jeffrey J. Levine;
 6. Affiant is a U.S. citizen, born in Chicago, Illinois on April 1, 1951;
- Further affiant sayeth not.


MICHAEL F. THOMPSON

SUBSCRIBED AND SWORN to before me
this 17th day of August, 2008.


Notary Public







UNITED STATES POSTAL INSPECTION SERVICE

OFFICE OF COUNSEL

September 17, 2008

Mr. Jeffrey J. Levine
Attorney at Law
20 North Clark Street, Suite 800
Chicago, IL 60602-4119

RE: FOIA No. 2008-FPIS-00264

Dear Mr. Levine:

This is in reference to your letter dated July 23, 2008, requesting, pursuant to the Freedom of Information/Privacy Acts, access to certain records that may be in the custody of the U.S. Postal Inspection Service regarding your client, Michael F. Thompson.

A search of the Postal Inspection Service's Integrated Information System (ISIIS) disclosed that Mr. Thompson was the subject of a closed investigation conducted in 1999 by the Chicago Division (Case No. 0380-1201365-RI(2)). However, we have been unable to locate this particular file. As information, our records are archived off-site at the Federal Records Center. If the case is eventually located, we will notify you at that time.

As provided in title 39, Code of Federal Regulations, part 265, you have a right to appeal this decision. A copy of the appeal procedure is also enclosed.

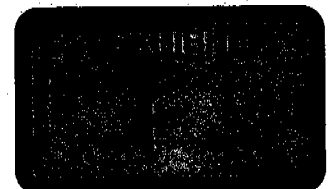
Sincerely,

A handwritten signature in cursive script, reading "Renee Baxter", is positioned above the typed name.

M. Renee Baxter
Information Disclosure Technician

Enclosure

1735 N. LYNN STREET, 8TH FLOOR
ARLINGTON, VA 22209-2020
TELEPHONE: 703-248-2100
FAX: 703-292-4083



JEFFREY J. LEVINE P.C.

ATTORNEY AT LAW

20 NORTH CLARK STREET, SUITE 800

CHICAGO, ILLINOIS 60602

312.372.4600

Via Certified Mail

7008 1140 0002 7652 9866

February 18, 2009

M. Renee Baxter
Information Disclosure Technician
U.S. Postal Inspection Service
Office of Counsel
1735 North Lynn Street, 8th Floor
Arlington, Virginia 22209-4039

Re: FOIA Request No. 2008-FPIS-00264
Case No. 0380-1201365-RI (2)

Dear Ms. Baxter:

Reference is made to my initial FOIA request on behalf of Michael Thompson, dated July 23, 2008, your July 30, 2008 responding correspondence, my August 5, 2008 Reply, and your August 8, 2008, Sur-reply. Reference is also made to your September 17, 2008 correspondence indicating that your office was "unable to locate" the file.

As you may remember, I represent Michael F. Thompson. On his behalf, I have previously requested copies of any and all records maintained by the U.S. Postal Service and the Postal Inspection Service, and any and all agencies thereof, relating to my client. The records requested specifically included, but were not limited to files, reports, interviews, photographs (or any method of image storage), envelopes or any other information regarding stamps, envelopes or other items that have been confiscated and/or maintained regarding, concerning indicating and/or referring to my client.

In your September 17, 2008 response, you advised:

1. that you are unable to locate the file;
2. that the records are archived off site at the Federal Records Center; and
3. that you will notify me if the case is eventually located.

I have received no further information from your office. To date, your office has not denied the request, nor have I been informed of any further efforts made to locate the documents

Therefore, I have filed an additional FOIA request regarding the transfer of the records. I also request that a final effort be made to locate the records and that you describe the search method employed by your office to locate the previously requested records.

Very truly yours,

Jeffrey J. Levine, P.C.

cc: M.F. Thompson



JEFFREY J. LEVINE P.C.

ATTORNEY AT LAW

20 NORTH CLARK STREET, SUITE 800

CHICAGO, ILLINOIS 60602

312.372.4600

Via Certified Mail
7008 1140 0002 7652 9590

February 18, 2009

M. Renee Baxter
Information Disclosure Technician
U.S. Postal Inspection Service
Office of Counsel
1735 North Lynn Street, 8th Floor
Arlington, Virginia 22209-4039

Re: FOIA Request
Case No. 0380-1201365-RI (2)

Dear Ms. Baxter:

As you may remember, I represent Michael F. Thompson. On his behalf, I have previously requested copies of records in the above captioned matter.

Pursuant to the Privacy Act, 5 U.S.C. § 552(a), and the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law No. 104-231, 110 Stat. 3048, on behalf of my client Michael F. Thompson, d/o/b/ 04/01/51, I hereby request a copy of any and all records maintained by the U.S. Postal Service and the Postal Inspection Service regarding the transfer of records maintained in Case No. 0380-1201365-RI (2), to the Federal Records Center. This request includes the following:

1. the transfer number (formerly the accession number)
2. the Agency box number
3. the Folder name/number (if applicable)
4. the Beginning location of transfer at the records center, and
5. the date of the transfer.

I have enclosed a copy of Mr. Thompson's August 17, 2008 affidavit and copy of his driver's license previously forwarded in my correspondence dated August 18, 2008.

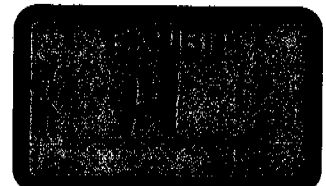
This request is not made for commercial use. See: 5 U.S.C. § 552(a)(4)(A)(ii)(II). If this request is denied in whole or in part based upon 5 U.S.C. § 552(b), please provide a basis for such denial to be submitted to the district court pursuant to 5 U.S.C. § 552(a)(4)(B).

Very truly yours,

Jeffrey J. Levine, P.C.

enclosures

cc: M.F. Thompson





JOINT LEGAL SERVICES CENTER

UNITED STATES POSTAL INSPECTION SERVICE

OFFICE OF INSPECTOR GENERAL

March 3, 2009

Mr. Jeffrey J. Levine
Attorney at Law
20 North Clark Street, Suite 800
Chicago, IL 60602-4119

RE: FOIA No. 2009-FPIS-00215

Dear Mr. Levine:

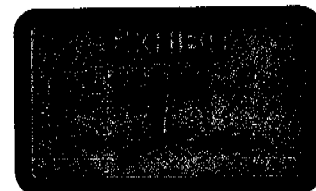
This will acknowledge receipt of your letter dated February 18, 2009 requesting, pursuant to the Freedom of Information/Privacy Acts, access to certain records that may be in the custody of the U.S. Postal Inspection Service.

We have located Case File No. 0380-1201365-RI(2). There will be a delay in responding due to the time involved in retrieving the records in question from another Postal Service facility.

As information, it is our policy to process requests for access to Postal Inspection Service records on a first-in, first-out basis.

Sincerely,

M. Renee Baxter
Information Disclosure Technician





UNITED STATES POSTAL INSPECTION SERVICE
OFFICE OF INSPECTOR GENERAL

March 20, 2009

Mr. Jeffrey J. Levine
Attorney at Law
20 North Clark Street, Suite 800
Chicago, IL 60602-4119

RE: FOIA No. 2009-FPIS-00215

Dear Mr. Levine:

This is in further reference to your letter dated February 18, 2009, requesting, pursuant to the Freedom of Information/Privacy Acts, access to certain records that may be in the custody of the U.S. Postal Inspection Service regarding your client, Mr. Michael Thompson.

Enclosed are 73 pages of record material which can be released to you. Certain deletions have been made to this material pursuant to title 5, United States Code, ~~section 552(b)(2)~~, which concerns records related solely to the internal personnel rules and practices of an agency; ~~section 552(b)(6)~~, where release of personnel and similar files would constitute a clearly unwarranted invasion of personal privacy; and section 552(b)(7)(C), which permits the withholding of records or information compiled for law enforcement purposes, the release of which could constitute an unwarranted invasion of the personal privacy of third parties.

In addition to these enclosures, there are 30 other pages which are exempt from disclosure in their entirety in accordance with ~~section 552(b)(3)~~; ~~section 552(b)(5)~~, which permits the withholding of inter-agency or intra-agency memorandums or letters which reflect the predecisional, deliberative processes of the agency, and/or which consist of attorney work product prepared in anticipation of litigation; ~~section 552(b)(6)~~ and ~~section 552(b)(7)(C)~~.

As provided in title 39, Code of Federal Regulations, part 265, you have a right to appeal this decision. A copy of the appeal procedure is also enclosed.

Sincerely,

Betty L. White
FOIA Manager

Enclosure



JEFFREY J. LEVINE P.C.

ATTORNEY AT LAW

20 NORTH CLARK STREET, SUITE 800

CHICAGO, ILLINOIS 60602

312.372.4600

Via Certified Mail
7008 1300 0000 3608 2518

April 8, 2009

Chief Counsel
Customer Programs
U.S. Postal Service
475 L'Enfant Plaza, SW
Washington, D.C. 20260-1135

Re: FOIA Request Nos. 2008-FPIS-00264 & 2009-FPIS-00215
Appeal - Title 39 CFR, Part 265

Dear Sir or Madam:

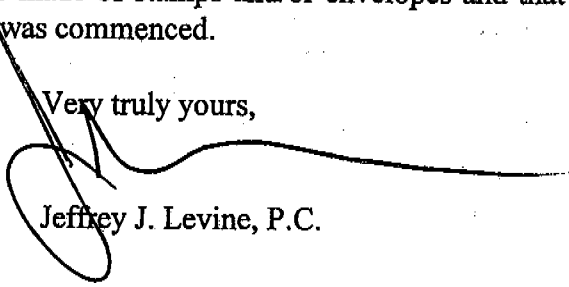
Reference is made to the above captioned matters. Please regard the instant correspondence as an Appeal, pursuant to Title 39 CFR, Part 265, of the deletions referenced in correspondence dated March 20, 2009.

I have enclosed a copy of the March 20, 2009, correspondence as well as all related correspondence related to the requests.

An appeal is hereby taken from the deletions referenced in the March 20, 2009, correspondence. Much of the deletions are based upon a claimed privacy of invasion of personal privacy including the privacy of third persons. It is our position that any claim of privacy can be resolved by redactions of the sort made in the 73 pages previously provided. Further, my clients initial request, dated July 23, 2008, requested that copies of stamps and envelopes be made via high resolution digital format or color reproductions. The copies received were of low resolution in black and white, by way of a photocopier. It is my position that my client is entitled to receive the entire file and that any deletions should be made by way of redacting any exempt portions. Finally, as no litigation was commenced, the claim that certain deletions were made in anticipation of litigation is invalid. For these reasons, the requestor believes the failure to provide the full file is erroneous.

On behalf of Michael Thompson, I hereby request an appeal and review of the decision to delete portions of the file, that any deletions for privacy be made by way of redaction, that high resolution color digital or color reproductions be made of stamps and/or envelopes and that the remainder of the file be provided as no litigation was commenced.

Very truly yours,


Jeffrey J. Levine, P.C.

cc: M.F. Thompson
enclosures



CORPORATE LAW



May 8, 2009

Jeffrey J. Levine, Esquire
20 North Clark Street, Suite 800
Chicago, IL 60602-41119

Freedom of Information Act Appeal: 09-071
Freedom of Information Act Request: 2009-FPIS-00215/2009-FPIS-00264

Dear Mr. Levine:

This responds to your letter dated April 8, 2009, which was received by our office on April 16, 2009. In your letter, you appeal the partial denial of your initial request, submitted pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, on behalf of your client Michael Thompson.

I. Background

By letter dated July 23, 2008, you requested any information maintained by the U.S. Postal Service and the Postal Inspection Service relating to your client, including, but not limited to, "files, reports, interviews, photographs, (or any method of image storage), envelopes, or any other information regarding stamps, envelopes, or other items that have been confiscated and/or maintained ...". By letter dated August 18, 2008, you provided the Postal Inspection Service with a notarized affidavit from your client indicating his identity and authorizing the release of any documents related to him to you.

The Postal Inspection Service reviewed 117 pages of records responsive to your request. In a decision dated March 20, 2009 (2009-FPIS-00215), the Joint Legal Services Center ("Center") disclosed to you 73 pages of documents with redactions pursuant to Exemptions 2, 6, and 7(C) of the FOIA. 5 U.S.C. § 552(b). In addition to the redacted material, the Center withheld 30 pages of material in their entirety pursuant to Exemptions 2, 5, 6, and 7(C). Although not described in the Center's March 20, 2009 decision, ten pages of records have been identified as being duplicates and four pages of records have been identified as non-responsive to your request.

II. Analysis

The FOIA generally requires government agencies to disclose records within their possession. The Act, however, contains several exemptions that permit agencies to withhold certain records. 5 U.S.C. § 552(b)(1)-(9). In this case, parts of the redacted information were properly withheld as exempt under FOIA Exemption 7(C). However, we have, in our discretion, determined that certain information, withheld pursuant to Exemptions 2 and 5, may be disclosed. By letter dated March 20, 2009, Ms. White determined that 30 pages should be withheld in their entirety. After careful review and



analysis, we have determined to release these pages with redactions pursuant to Exemptions 6 and 7(C). Accordingly, we uphold in part and reverse in part the Center's initial decision for the reasons set forth below.

Exemption 7

Certain information in this case was properly withheld under FOIA Exemption 7.¹ FOIA Exemption 7 applies to "records or information compiled for law enforcement purposes." 5 U.S.C. § 552(b)(7). Exemption 7(C) permits agencies to withhold law enforcement records of which disclosure "could reasonably be expected to constitute an unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(7)(C). The exemption requires agencies to weigh the privacy interests of the requester against the public interest, if any, that would be served by disclosure. Dep't of Justice v. Reporters Comm. for Freedom of the Press, 489 U.S. 749, 762 (1989).

The information being withheld pursuant to Exemption 7(C) consists of names and other information pertaining to persons other than Mr. Thompson, including witnesses, third parties, and law enforcement personnel. Exemption 7(C) protects the privacy interests of any individuals mentioned in records compiled for law enforcement purposes, whether they are the subjects of an investigation, witnesses, or third parties. King v. Dep't of Justice, 830 F.2d 210, 233 (D.C. Cir. 1987). The exemption protects both information that is in itself embarrassing or intimate, and information that might cause adverse effects on an individual's life if it were disclosed. L & C Marine Transp., Ltd. v. United States, 740 F.2d 919, 923 (11th Cir. 1984).

An individual does not lose his or her privacy interest under Exemption 7(C) because the individual's identity may otherwise be discoverable, *id.* at 922, or even if the individual's name has been disclosed elsewhere. Massey v. FBI, 3 F.3d 620, 624 (2d Cir. 1993). The protection of personal privacy under Exemption 7(C) continues after an investigation is closed, and does not lose its status as being private by the passage of time. See Keys v. Dep't of Justice, 830 F.2d 337, 348 (D.C. Cir. 1987).

We do not consider that there is a public interest in disclosure of the withheld information sufficient to outweigh the individuals' privacy interests. Although you may have a strong personal interest in obtaining the information, the FOIA requires that we balance the individuals' privacy interests against the interest of the public in general -- shedding light on the conduct of government agencies -- and not the particular interest of the requester. Reporters Comm. for Freedom of the Press, 489 U.S. at 771-73. The disclosure of information concerning private persons or government employees generally does not contribute significantly to the public's knowledge of the operations and activities of the government. See Massey, 3 F.3d at 625; Safecard Servs., Inc. v. SEC, 926 F.2d 1197, 1205-06 (D.C. Cir. 1991). Accordingly, the privacy interests of the

¹ We may also rely on FOIA Exemption 6, which permits agencies to withhold "personnel files and medical files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy," 5 U.S.C. § 552(b)(6). Exemption 6 may apply to some of the information in this case and it provides protection of privacy interests similar to the protection provided by Exemption 7(C). However, because the records qualify for the application of Exemption 7(C), and Exemption 7(C) provides greater protection of personal privacy than Exemption 6, we will limit our discussion to the application of Exemption 7(C).

individuals involved in this case outweigh any public interest in disclosure, and information pertaining to the individuals was properly withheld.

III. Miscellaneous Matters

In your April 8, 2009, appeal letter, you stated that in your client's initial request, by letter dated July 23, 2008, you had "requested that copies of stamps and envelopes be made [available] via high resolution digital format or color reproductions." We interpret your appeal to be based on the refusal of the agency to organize or compile the material in a manner specific to your desires. The FOIA is not intended to compel agencies to become *ad hoc* researchers for requesters whose requests are not compatible with their own information systems. A requester "must take the agency records as he finds them." Kissinger v. Reporters Comm. for Freedom of the Press, 445 U.S. 136, 152 (1980); Safecard Services, 926 F.2d at 1201. Accordingly, the Postal Service is not required to comply with your request.

IV. Conclusion

This is the final decision of the Postal Service on your right of access to records pursuant to the FOIA. You may seek judicial review of this decision by bringing suit for that purpose in the United States District Court for the district in which you reside or have your principal place of business, the district in which the records are located, or in the District of Columbia.

For the General Counsel,

/s/

Christopher T. Klepac
Chief Counsel, FOIA/Privacy & Government Relations

cc: Ms. Baxter
Ms. White

RAPP CASE FILE CHECKLIST

(EI, FE, FWC, RI, TI)

Indicate by check mark or date all the apply

Case Number 380-1201365 P. (1)Inspector EX-7(C)Number of Identifications _____
Money Laundering Charged? (Y/N) _____Number of Arrest _____
Forfeiture? (Y/N) _____

Inspector Report (if applicable)

Preliminary (2029) _____

Final (2029) Special _____Investigative Summary Report? (Y/N) NCRS (Initialed and Dated) ✓

Final Decision Letter _____

Memorandum of Interview(s) ✓Investigative Memorandum(s) ✓Investigative Summary Log ✓

U. S. Attorney Letter _____

Local/State Presentation Letter _____

ATS/CATS Profile Complete _____

ATS Finding Briefs Complete _____

Crime Lab Requests _____

Crime Lab Reports _____

Loss Reports _____

Collection/Set-off Report _____

ISCOMS/EMs for Significant Cases _____

Sent? (Y/N) N

PS Form 623

PS Form 2026-A IHF-Personal

History Data

PS Form 2026-B Firm Data

PS Form 561-A (Statement of

Account) or

PS Form 3294 (Cash/Stamp

Stock Count/Summary)

PS Form 714: High Value

PS Form 720: Low Value

PS Form 589, Electronic

Surveillance Summary

Report (714 Required if done

PS Form 1513, Notification of

Criminal Monetary Imposition

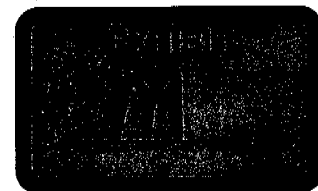
PS Form 2091 (Set-off Action Req.)

Summary of Credited Events

Print Screen of all ISNs

✓
ISNBs Generated ONLY
NO INTERVIEW CONDUCTN/A NO SCREENING**Before case is closed ensure the following:**

- * Case closed to case number (if applicable) ✓
- * Final ISR to Postal Management, date ✓
- * Copy of Final ISR/IM/2029 to RAPP Steering Committee ✓
- * Details of Investigation/Subject Narrative has been properly annotated ✓
- * ISNs have been created for ALL Case Subjects/Firms ✓
- * All evidence, grand jury material, ES material, circularization letters, Forms 2099, etc., have been removed from the case file and processed as appropriate. ✓
- * Fingerprint Cards and Forms R-84, Final Disposition Report, have been forwarded to the FBI and the Forensic and Technical Services Division at Dulles, VA. N/A

ATTACHMENT IV - RAPP CASE FILE CHECKLIST**MAY 1995 - PAGE 1**


MICHAEL THOMPSON and [REDACTED] are local artists who have specialized in "stamp art" since 1990. They create stamps lampooning various subjects ranging from politics to sexual acts. They place these stamps on self-addressed envelopes and drop them into collection boxes throughout the country.

Their intent is to have the stamp postmarked by the Postal Service, thereby increasing the value of the stamp. The artists display their stamps at various art galleries and exhibits in the Chicago and Portland, OR areas.

- 4. The artists received publicity in June, 1995, when the Chicago Tribune printed an interview with Thompson and [REDACTED] regarding the stamps. At the time, the Inspection Service was monitoring the artists' activities but no formal investigation was deemed necessary. Shortly thereafter, the activities of the artists slowed dramatically. (ATTACHMENT 1)

CURRENT ACTIVITY

- 5. Beginning in October, 1996, Thompson [REDACTED] resumed their activities. Mail pieces bearing their artwork were referred from the Postal Service to the Inspection Service on a regular basis. An official case was jacketed on November 26, 1996. (ATTACHMENT 2)
- 6. On December 24, 1997, a request for assistance, on behalf of Norwegian postal officials, was received from [REDACTED] EX 7(c). The Norwegians had confiscated three outgoing mail pieces bearing Thompson's artwork. The pieces were forwarded to Inspection Service Headquarters, along with a request for assistance. (ATTACHMENT 3)
- 7. On January 26, 1998, [REDACTED] EX 7(c) interviewed Michael Thompson at his art studio located at 500 W. Cermak, Chicago, IL. Mr. Thompson produced portfolios of his stamp artwork. He also provided Inspectors with details of his production process which includes cutting and pasting various photos and pictures from books and magazines and arranging them in an "artist manner". He then has the original copied, usually at a Kinko's, and copied again to create a full sheet. Mr. Thompson uses a perforator, acquired with the studio, to perforate the stamps. Thompson stated he individually glues each stamp he sends through the mail. Thompson stated [REDACTED] EX 7(c) created his "stamp art" in a similar manner using a computer scanner. He stated EX 7(c) also possessed a perforator. Samples of perforations were taken from Thompson's perforator. The perforations are not the size of U.S. postage stamp perforations.
- 8. Thompson stated he had a list of artists throughout numerous countries involved in "mail art". He stated he made a "cold call", in written form, to an individual in Norway asking that person to drop his three envelopes bearing Norwegian "stamp art" into the Norwegian mail system. The envelopes were addressed to Thompson and an associate. Thompson stated he could not recall the name or address of the individual he contacted, nor could he produce the list of mail artists.
- 9. After Inspectors were satisfied Mr. Thompson was not counterfeiting U.S. or foreign postage stamps, Thompson was advised of the illegality of depositing letters in the mail stream without the payment of proper postage and the illegality of depositing mail matter depicting pornographic images. A Voluntary Discontinuance letter was sent to Thompson, via Certified mail, on February 4, 1998. Thompson's attorney contacted Inspectors and advised his client would "cease and desist". (ATTACHMENT 4)
- 10. Inspectors attempted to interview [REDACTED] EX 7(c) at his studio located at [REDACTED] EX 7(c). Inspectors were advised any contact with [REDACTED] EX 7(c) would have to be conducted through his attorney. A

 on Febru. / 4, 1998. His attorney stated he would comply.

~~(ATTACHMENT C)~~

1. The envelopes bearing the "stamp art" were determined to be nonmailable matter per DMM Issue 50, Section P022.4.1, Imitations of Stamps; C010.9.2, Other Nonmailable Matter; and C031.5.4, Lewd or Filthy Matter.
2. A total of 312 envelopes and cards are retained by the Inspection Service as evidence of violation of 18 USC 501, 18 USC 502, 18 USC 1725, and 18 USC 1463. The total value of postage represents a minimal revenue loss to the Postal Service.
3. Presentation to the U.S. Attorney's office was not made at this time due to known guidelines and prosecutive action.
4. This case has received local newspaper and television attention as well as national magazine and radio attention.
5. No further investigative attention is warranted at this time.